HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO: 24517 of 2005

Dated: 22-08-2007

Between:

Balamani

..... PETIT

AND

The Manager,
State Bank of Hyderabad,
Andhra Pradesh, High Court Branch,
Hyderabad and another.

.....RESPONI

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 24517 of 2005

O R D E R:

This writ petition is filed for a writ of Mandamus to declare the action of the first respondent in refusing to permit joint operation by the petitioner and her husband of the proposed account to be opened in the name of a Proprietary concern called 'Law Animated World' as being in violation of Articles 14, 19 (1) (a) and 19(1) (g) of the Constitution of India. The petitioner also sought for a consequential direction to the first respondent to immediately open an account and to award suitable compensation.

The petitioner, intending to open a Bank Account in the name 'Law Animated World' together with its acronym LAW, made an application on 30-06-2005 to the first respondent. The petitioner requested the first respondent to open an account to be jointly operated by her and her husband who claims to be the Editor of a Law Journal. The petitioner's request was rejected by the first respondent with a note " for a sole proprietary A/C joint operation cannot be permitted nor A/C can be operated in joint names. Please advice the party accordingly."

The petitioner caused a legal notice dated 15-07-2005 served on the first respondent and later the first respondent got served reply notice dated 28-07-2005 on the petitioner wherein he sought to justify his action in refusing to permit operation of the account jointly by the petitioner and her husband. The petitioner later approached the Banking Ombudsman, who after examining the complaint refused to grant any direction to the first respondent and the decision was communicated to the petitioner vide letter No. BO (H)/LP/865/4.02.314/2005-2006 dated 24-09-2005. Thereupon, the petitioner filed the present writ petition.

The first respondent filed a counter affidavit wherein it is *inter alia* stated that neither the provisions of the Banking Regulation Act nor the Rules framed thereunder deal with the opening of accounts and that it is only the Banking practice which is being followed by the first respondent. It is further stated that joint operation of account in the name of proprietary concern is not permissible

as per the Banking Practice and that the Banking Ombudsman had also agreed with the view taken by the Bank. It is also stated that the petitioner can open joint account in her name and in the name of any other person, which can be operated jointly and the same is also permissible as per the Banking practice, but she cannot open an account in the name of proprietary concern to be operated by herself and her husband. It is also pleaded that none of the rights of the petitioner are violated by the first respondent in rejecting her request to permit operation of the proposed account jointly by her and her husband.

Heard Sri P.Sridhar, advocate, representing Sri Hariharan, learned counsel for the petitioner and Sri K.Sridhar Rao learned counsel for the respondents. Both the learned counsel through their oral submissions reiterated what is contained in their respective pleadings of the parties.

I have given serious thought to the submissions made by the learned counsel for the parties.

A perusal of the submissions in the affidavit does not show that the refusal by the first respondent of the petitioner's request to permit the joint operation of the account to be opened in the name of a proprietary concern is in violation of any of the statutory provisions. The petitioner in the affidavit has also not denied the claim of the first respondent that according to the Banking practice, the account opened in the name of a proprietary concern will not be permitted to be operated jointly by persons other than those shown as Proprietor/Proprietors.

The petitioner approached the Banking Ombudsman and her complaint was rejected by him through his letter No. BO (H)/LP/865/4.02.314/2005-2006 dated 24-09-2005. This communication is not challenged by the petitioner though she filed a copy of the same along with the writ petition. Since the petitioner failed to either plead or demonstrate that the rejection of her request by the first respondent in any way is in violation of any of the statutory provisions governing the affairs of the first respondent or violates any of the rights of the petitioner, she is not entitled to any relief in this writ petition. Moreover, the Banking Ombudsman, who is constituted under a statutory scheme to look into the grievances of the customers both existing and prospective of the Bank, agreed with the view taken by the first respondent and the petitioner is unable to show that the view taken by the Banking

Ombudsman is in any manner perverse or unsustainable. This apart, the fact that the account being proposed to be opened in the name of the proprietary concern and the husband of the petitioner not being a co-proprietor, there is rationale behind the reason of the Bank that a person who is not a Proprietor/ Co-proprietor cannot be allowed to operate an account which is opened in the name of a proprietary concern.

For the aforementioned reasons, I do not see any illegality in the action of the first respondent impugned in this writ petition.

There is yet another reason for my disinclination to interfere in this matter, because the State Bank of Hyderabad, being a statutory corporation is not made a party and instead its Manager is shown as a party. In strict sense, the writ petition cannot be maintained.

For the aforementioned reasons, the writ petition is dismissed. No costs.

C.V.NAGARJUNA REDDY,J

Date 22-08-2007
KLP